

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 979

Introduced by Landis, 46

Read first time January 9, 2006

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to county zoning; to amend section 23-174.01,
2 Reissue Revised Statutes of Nebraska, and section 23-114,
3 Revised Statutes Cumulative Supplement, 2004; to provide
4 for regulation and restriction of development rights as
5 prescribed; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-114, Revised Statutes Cumulative
2 Supplement, 2004, is amended to read:

3 23-114 (1) The county board shall have power: (a) To
4 provide for temporary zoning as provided in sections 23-115 to
5 23-115.02; (b) to create a planning commission with the powers
6 and duties set forth in sections 23-114 to 23-114.05, 23-168.01 to
7 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376; (c) to
8 make, adopt, amend, extend, and implement a county comprehensive
9 development plan; (d) to adopt a zoning resolution, which shall
10 have the force and effect of law; and (e) to cede and transfer
11 jurisdiction pursuant to section 13-327 over land otherwise subject
12 to the authority of the county board pursuant to this section.

13 (2) The zoning resolution may regulate and restrict:
14 (a) The location, height, bulk, number of stories, and size of
15 buildings and other structures, including tents, cabins, house
16 trailers, and automobile trailers; (b) the percentage of lot
17 areas which may be occupied; (c) building setback lines; (d)
18 sizes of yards, courts, and other open spaces; (e) the density
19 of population, including, but not limited to, the establishment,
20 transfer, and exercise of development rights; (f) the uses of
21 buildings; and (g) the uses of land for agriculture, forestry,
22 recreation, residence, industry, and trade, after considering
23 factors relating to soil conservation, water supply conservation,
24 surface water drainage and removal, or other uses in the
25 unincorporated area of the county. If a zoning resolution or

1 regulation affects the Niobrara scenic river corridor as defined
2 in section 72-2006, the Niobrara Council shall act on the measure
3 as provided in section 72-2010.

4 (3)(a) The county board shall not adopt or enforce any
5 zoning resolution or regulation which prohibits the use of land
6 for a proposed residential structure for the sole reason that the
7 proposed structure is a manufactured home if such manufactured home
8 bears an appropriate seal which indicates that it was constructed
9 in accordance with the standards of the Uniform Standard Code for
10 Manufactured Homes and Recreational Vehicles, the Nebraska Uniform
11 Standards for Modular Housing Units Act, or the United States
12 Department of Housing and Urban Development. The county board may
13 require that a manufactured home be located and installed according
14 to the same standards for foundation system, permanent utility
15 connections, setback, and minimum square footage which would apply
16 to a site-built, single-family dwelling on the same lot. The county
17 board may also require that manufactured homes meet the following
18 standards:

19 (i) The home shall have no less than nine hundred square
20 feet of floor area;

21 (ii) The home shall have no less than an eighteen-foot
22 exterior width;

23 (iii) The roof shall be pitched with a minimum vertical
24 rise of two and one-half inches for each twelve inches of
25 horizontal run;

1 (iv) The exterior material shall be of a color, material,
2 and scale comparable with those existing in residential site-built,
3 single-family construction;

4 (v) The home shall have a nonreflective roof material
5 which is or simulates asphalt or wood shingles, tile, or rock; and

6 (vi) The home shall have wheels, axles, transporting
7 lights, and removable towing apparatus removed.

8 (b) The county board may not require additional standards
9 unless such standards are uniformly applied to all single-family
10 dwellings in the zoning district.

11 (c) Nothing in this subsection shall be deemed to
12 supersede any valid restrictive covenants of record.

13 (4) For purposes of this section, manufactured home shall
14 mean (a) a factory-built structure which is to be used as a place
15 for human habitation, which is not constructed or equipped with
16 a permanent hitch or other device allowing it to be moved other
17 than to a permanent site, which does not have permanently attached
18 to its body or frame any wheels or axles, and which bears a
19 label certifying that it was built in compliance with National
20 Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280
21 et seq., promulgated by the United States Department of Housing
22 and Urban Development, or (b) a modular housing unit as defined
23 in section 71-1557 bearing a seal in accordance with the Nebraska
24 Uniform Standards for Modular Housing Units Act.

25 (5) Special districts or zones may be established in

1 those areas subject to seasonal or periodic flooding, and such
2 regulations may be applied as will minimize danger to life and
3 property.

4 (6) The powers conferred by this section shall not
5 be exercised within the limits of any incorporated city or
6 village nor within the area over which a city or village has
7 been granted or ceded zoning jurisdiction and is exercising such
8 jurisdiction. At such time as a city or village exercises control
9 over an unincorporated area by the adoption or amendment of a
10 zoning ordinance, the ordinance or amendment shall supersede any
11 resolution or regulation of the county.

12 Sec. 2. Section 23-174.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 23-174.01 Every county in which is located a city of the
15 primary class shall have power within the county, except within
16 the area over which zoning jurisdiction has been granted to any
17 city or village and over which such city or village is exercising
18 such jurisdiction, to regulate and restrict (1) the location,
19 height, bulk, and size of buildings and other structures, (2) the
20 percentage of a lot that may be occupied, (3) the size of yards,
21 courts, and other open spaces, (4) the density of population,
22 including, but not limited to, the establishment, transfer, and
23 exercise of development rights, and (5) the locations and uses
24 of buildings, structures, and land for trade, industry, business,
25 residences and other purposes. Such county shall have power within

1 the county, except within the area over which zoning jurisdiction
2 has been granted to any city or village and over which such
3 city or village is exercising such jurisdiction, to divide the
4 county zoned into districts of such number, shape, and area as
5 may be best suited to carry out the purposes of this section,
6 and to regulate, restrict, or prohibit the erection, construction,
7 reconstruction, alteration, or use of buildings, structures, or
8 land within the total area zoned or within districts. All
9 such regulations shall be uniform for each class or kind of
10 buildings throughout each district, but regulations applicable to
11 one district may differ from those applicable to other districts.
12 Such zoning regulations shall be designed to secure safety from
13 fire, flood, and other dangers and to promote the public health,
14 safety, and general welfare and shall be made with consideration
15 having been given to the character of the various parts of the
16 area zoned and their peculiar suitability for particular uses
17 and types of development and with a view to conserving property
18 values and encouraging the most appropriate use of land throughout
19 the area zoned in accordance with a comprehensive plan. The
20 provisions of section 23-114 which relate to manufactured homes
21 shall apply to such zoning regulations. Such zoning regulations
22 may include reasonable provisions regarding nonconforming uses and
23 their gradual elimination.

24 Sec. 3. Original section 23-174.01, Reissue Revised
25 Statutes of Nebraska, and section 23-114, Revised Statutes

LB 979

LB 979

1 Cumulative Supplement, 2004, are repealed.